

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

ANDRIETTE ROWELL,

Plaintiff,

v.

CITY OF AUBURN, ALABAMA,

JUDGE JOE BAILEY,

Defendants.

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NO.: 3:07-CV-475-WHA

PLAINTIFF'S MOTION TO AMEND COMPLAINT

Comes now the Plaintiff, Andriette Rowell, by and through her attorney and moves the Court, pursuant to Rule 15(a) of the Federal Rules of Civil Procedure and in accordance with Section Four of the Uniform Scheduling Order entered in this cause, for leave to amend her Complaint by the filing of the Amended Complaint, the original and a copy of which is attached hereto. In support of this motion, Plaintiff avers as follows:

1. Plaintiff's original Complaint was filed before Plaintiff received her Right-to-Sue notice on her failure to promote claim. The original Complaint, filed by prior counsel, refers repeatedly to the failure to promote but was filed prematurely with respect to that claim. Newly retained counsel desires to amend the Complaint to state that claim and does not desire to pursue the other claims and legal theories set out in the original Complaint, nor does present counsel wish to name the individual Defendant, Judge Joe Bailey, as a defendant. The proposed Amended Complaint will accomplish these purposes.

2. Plaintiff desires to strike the original Complaint in its entirety and substitute in lieu thereof the attached Amended Complaint, and strike or dismiss Defendant Judge Joe Bailey as a defendant.

3. This motion and the proposed Amended Complaint is timely under Section four of the Uniform Scheduling Order entered in this case and the granting of this motion will not prejudice the Defendant.

Dated this 5th day of October, 2007.

/s/Gerald L. Miller
GERALD L. MILLER (MIL039)
Attorney for Plaintiff
Andriette Rowell

OF COUNSEL:
REDDEN, MILLS & CLARK, LLP
940 Financial Center
505 20th Street North
Birmingham, Alabama 35203
(205) 322-0457

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Randall Morgan, Esq.
Hill, Hill, Carter, Franco, Cole & Black, P.C.
425 South Perry Street
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/s/Gerald L. Miller
Of Counsel

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

ANDRIETTE ROWELL,

Plaintiff,

V.

**CITY OF AUBURN, ALABAMA,
a municipal corporation,**

Defendants.

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NO.: 3:07-CV-475-WHA

AMENDED COMPLAINT

1. Plaintiff is a black female citizen of the United States and of the State of Alabama and is over 19 years of age. Plaintiff resides in Lee County, Alabama, within the Eastern Division of the Middle District of Alabama.

2. Defendant City of Auburn, Alabama is a municipal corporation located within the Eastern Division of the Middle District of Alabama. Defendant is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1991.

3. This suit is authorized and instituted pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.; and the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The jurisdiction of this court is invoked pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(4).

4. Plaintiff has fulfilled all conditions precedent to the institution of this suit in

that Plaintiff timely filed a charge of discrimination against Defendant with the Equal Employment Opportunity Commission and filed this Amended Complaint within ninety (90) days of the receipt of her Right-to-Sue notice from the Civil Rights Division of the U.S. Department of Justice, having filed the original complaint in this cause prior to the issuance of the said Right-to-Sue notice.

5. Plaintiff was employed by Defendant in April, 1990 as a Municipal Court Magistrate and remained employed in that capacity until she was promoted in 1996 to the position of Assistant Court Clerk. Plaintiff has remained continuously employed in that position since that date.

6. In the Summer of 2005 Plaintiff applied for and was eventually reluctantly interviewed for the position of Court Clerk, which position title was changed to Assistant Administrator/Court Clerk. Plaintiff was fully qualified for the position and had served as assistant Court Clerk for nine years.

7. In August, 2005 Plaintiff was passed over for the position and a less qualified white male, Brad Bass, was hired for the position, effective September 1, 2005.

8. Plaintiff was far more qualified for the position than Bass, who, in fact, did not meet the written qualifications for the position. Plaintiff avers that Defendant failed and refused to promote her because of her sex, female, or her race, black, or both.

9. As a consequence of Defendant's unlawful conduct, Plaintiff suffered and continues to suffer lost wages and fringe benefits, embarrassment, humiliation, physical and mental distress, TMJ, depression, anxiety, and other symptoms and physical manifestations

of physical and emotional injury.

WHEREFORE, Plaintiff prays that this Court will grant her relief as follows:

(A) Grant Plaintiff a declaratory judgment that the employment practices complained of herein are violative of the rights of Plaintiff as secured by Title VII of the Civil Rights Act of 1964, and the Civil Rights Act of 1991.

(B) Grant Plaintiff a permanent injunction enjoining Defendant, its agents, successors, employees, attorneys, and those acting in concert with the Defendant at the Defendant's request, from continuing to violate Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991.

(C) Enter an order requiring Defendant to promote Plaintiff to the position that was wrongfully denied her, or front pay in lieu thereof.

(D) Grant Plaintiff an award of back pay and fringe benefits (plus interest) and compensatory damages.

(E) Plaintiff further prays for such other relief and benefits as the cause of justice may require, including, but not limited to, an award of costs, attorney's fees, and expenses.

/s/Gerald L. Miller
GERALD L. MILLER (MIL039)
Attorney for Plaintiff
Andriette Rowell

OF COUNSEL:
REDDEN, MILLS & CLARK, LLP
940 Financial Center
505 20th Street North
Birmingham, Alabama 35203
(205) 322-0457

JURY DEMAND

Plaintiff hereby demands a trial by struck jury in this cause.

/s/Gerald L. Miller
OF COUNSEL

Plaintiff's Address:
4367 U.S. Hwy. 29 North
Opelika, Alabama 36804